



**International Convention
on the Elimination
of all Forms of
Racial Discrimination**

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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Tenth periodic reports of States parties due in 1988

Addendum

ARGENTINA 1/

[27 July 1989]

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* Re-issued for technical reasons.

1/ For previous reports submitted by the Government of Argentina and the summary records of the meetings of the Committee at which the reports were considered, see:

Initial report - CERD/C/R.3/Add.1 and Add.19 (CERD/C/SR.30, 31 and 56);
Second periodic report - CERD/C/R.30/Add.2 (CERD/C/SR.126-127);
Third periodic report - CERD/C/R.70/Add.20 (CERD/C/SR.232-233);
Fourth periodic report - CERD/C/R.90/Add.4 (CERD/C/SR.280-281);
Fifth periodic report - CERD/C/20/Add.7 and Corr.1 (CERD/C/SR.390-391);
Sixth periodic report - CERD/C/66/Add.6 (CERD/C/SR.479-480);
Seventh periodic report - CERD/C/91/Add.8 (CERD/C/SR.578-579);
Eighth periodic report - CERD/C/118/Add.1 and Add.16 (CERD/C/SR.684-685);
Ninth periodic report - CERD/C/149/Add.1 (CERD/C/SR.783).

INTRODUCTION

1. The Government of the Argentine Republic submits its tenth periodic report, which updates the information on the legislative, judicial, administrative or other measures adopted since the submission of its ninth report, in December 1985, thus complying with article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination.
2. The revised general guidelines concerning the form and contents of reports by States parties, contained in document CERD/C/70/Rev.1, adopted at the twenty-fifth session, on 17 March 1982, have been followed in preparing the report.
3. It should be pointed out that the Government of the Argentine Republic regrets not being able to provide information on the implementation of the Convention on the Elimination of All Forms of Racial Discrimination throughout its territory, which includes the Malvinas Islands, South Georgia and South Sandwich Islands. As all are aware, there is a dispute between the Argentine Republic and the United Kingdom of Great Britain and Northern Ireland about sovereignty over the Malvinas Islands, and it is recognized by the United Nations. The United Nations has repeatedly urged the parties to hold negotiations to reach a solution, negotiations which have not been resumed despite the constant willingness of the Argentine Government.
4. Essentially, this report describes the provisions enacted by the constitutional authorities from 1986 onwards. In respect of earlier measures, therefore, the ninth periodic report by the Argentine Republic should be referred to for further information.
5. The information provided below clearly indicates that a keystone of the Argentine democratic process has been and is the full restoration of human rights. To this end, besides helping to strengthen the legal system through legislation guaranteeing full and unceasing enjoyment of human rights, the Constitutional Government has included in its activities a programme aimed at strengthening respect for the nation's cultural freedom and identity in a framework of social harmony that rejects any type of racial discrimination and condemns any of its manifestations.

PART I - GENERAL

6. When the rule of law was re-established in Argentina, the Constitutional Government made a public commitment to ensure the realization of human rights. On that basis, the adoption of human rights as a cultural value with a decisive impact on national life was approached from two sides. On the one hand, it was necessary to clear away an environment in which authoritarian attitudes had taken root and were having an adverse effect on the full establishment of human rights, and on the other, legislative measures guaranteeing the effective enjoyment of those rights had to be adopted.
7. The first side of the matter was tackled with a human rights education policy. In the second place, within a few years the Argentine Government had ratified and/or acceded to the main international instruments for the promotion and protection of human rights. The provisions adopted from the time the Constitutional Government took office up until 1985 are set out in the ninth report by the Argentine Republic, submitted to the Committee on the Elimination of Racial Discrimination in December 1985, which should be consulted for further information.

8. From that period through to the present, various laws on human rights have been enacted, more particularly the following:

(a) Act No. 23,313 adopting the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and the Optional Protocol.

Adoption: 17 April 1986
Enactment: 6 May 1986;

(b) Act No. 23,338 adopting the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(c) Order No. 40,831 of the Buenos Aires City Council of 17 October 1985 established the Office of the Commune Controller-General (Ombudsman), which is intended to supervise the proper conduct of officials and employees of the Executive Department of the City of Buenos Aires and of the centralized administration, decentralized organs and any other entity functioning within the sphere of competence of the Executive Department, together with the activity of the executive offices subordinate to the local councils. The Order also stipulates that it is the responsibility of the Commune Controller-General to protect the rights and broad legitimate interests of the inhabitants of the City of Buenos Aires against arbitrary action, abuses of authority and administrative errors, to give satisfaction, by the most appropriate possible means, to persons who consider they have suffered an injury as a result of deficiencies, abuses, negligence, excessive delay in procedures or any other act reflecting lack of consideration for the public, deceit or administrative irregularity, and, through his recommendations, to avert the recurrence of improper practices (annex 1);

(d) Act No. 23,451 of October 1986 adopting the Convention concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities (annex 6):

(e) The new Constitution of the Province of Córdoba, ratified in 1987, stipulates in section 2, "Rights", chapter I, "Personal rights": "All inhabitants of the Province enjoy the rights and guarantees recognized by the National Constitution and the international treaties ratified by the Republic and are subject to the duties and restrictions imposed by them". Similarly, the Universal Declaration of Human Rights and the American Convention on Human Rights (annex 7) are contained in annexes to the Constitution of Córdoba;

(f) In August 1988, Congress adopted a law relating to punishment of discriminatory acts committed on the grounds of race, sex, religion or nationality (Act No. 23,592, annex 2).

9. With regard to Act No. 23,302, on Indigenous Policy and Assistance to Indigenous Communities, adopted on 30 September 1985 and enacted on 8 November 1985, the Executive drew attention to certain difficulties that might arise at the executive level, and in its capacity as the co-legislative constitutional power and principal branch responsible for implementation of the Act, suggested that the terms of the Act should be examined in consultation with members of the indigenous communities in order to determine whether changes were needed for broader and more rapid achievement of the instrument's goals. This initiative by the Executive led to a bill amending Act No. 23,302 (annex 3), although the bill has not yet been considered by the Legislature.

Establishment of the Under-Secretariat for Human Rights in the International Sector

10. Under Decree No. 932 of 11 June 1986, the Under-Secretariat for Human Rights in the International Sector was established within the Ministry of Foreign Affairs and Worship, thereby raising the rank of the Directorate-General which had functioned since the Constitutional Government had assumed office.

11. The purpose of the Under-Secretariat is to identify, formulate and propose foreign policy plans, programmes, projects and objectives relating to human rights and conduct foreign policy relating to human rights *vis-à-vis* international organizations or special commissions.

12. Decree No. 2347 of 17 December 1986 established the Directorate-General for Human Rights and the Directorate-General for Women, within the Under-Secretariat for Human Rights in the International Sector.

13. One of the specific functions of the Directorate-General for Human Rights is to deal, in co-ordination with other competent bodies, with all matters relating to national, ethnic, religious and linguistic minorities in the sphere of international organizations and with the elaboration of international human rights norms in which the Argentine Republic is involved. It is also a function of the Directorate-General for Human Rights to participate in the Refugee Eligibility Committee (CEPARE) as a representative of the Ministry of Foreign Affairs and Worship, and to take part in decision making on the granting of asylum and/or refugee status in the Argentine Republic to foreigners.

14. The functions of the Directorate-General for Women include the identification, formulation and proposal of foreign policy plans, programmes, projects and objectives relating to the status and situation of women, in connection with its activities *vis-à-vis* international organizations, entities or special commissions.

Invoking of the Convention in the nation's courts

15. Article 31 of the National Constitution states that "This Constitution, the laws enacted by Congress in consequence thereof and treaties with foreign powers are the supreme law of the nation ...". By virtue of this provision, all international conventions adopted by act of Congress may be invoked directly before the courts or administrative authorities and do not require internal legislation or administrative regulations to enable the competent authorities to enforce them.

Information on general recommendation IV adopted by the Committee on 16 August 1973, relating to information on the demographic composition of the population:

16. The "annexes" section to this report contains table G.1, on the "Total population by sex, density and urban or rural zone, by province" (1980 census, annex 4).

17. Regarding the indigenous population, it should first of all be pointed out that a new National Indigenous Census is needed to update information on the demographic make-up of the indigenous population. However, based on an

estimate of 150,000 persons in 1968, from surveys conducted in a few provinces in which indigenous peoples live in communities, the minimum figure can be set at approximately 200,000. Even if this is considered to be incomplete information, it may be used to prepare the following tables:

Table I

DISTRIBUTION BY GROUP: COMMUNITIES

Group	Number of Inhabitants	Number of Communities
Chiriguanos	25 000	69
Chane	1 500	4
Chulupies	180	1
Choroteas	1 100	9
Mbi'a	3 000	19
Tehuelches	100	5
Araucanized	300	3
Mapuches	38 000	262
Tobas	40 000	76
Matacos	28 000	123
Mocovi	10 000	25
Coyas	50 000	80
Pilaga	2 700	88
Total	202 500	684

Table II

INDIGENOUS POPULATION IN EACH PROVINCE

Province	Indigenous Population	Ind. Pop. Percentage of Total Pop.
Buenos Aires	9 000	0.11
Chaco	35 000	6.18
Chubut	10 000	5.29
Formosa	30 000	12.82
Jujuy	50 000	16.85
La Pampa	5 000	2.92
Misiones	3 000	0.67
Neuquen	10 000	7.77
Rio Negro	14 000	5.34
Salta	32 000	6.28
Santa Cruz	500	0.59
Santa Fe	7 000	0.32
Tucuman	undetermined	-. -
Catamarca	undetermined	-. -
Total	202 500	

18. The information in tables I and II is based on official statistics, corrected and weighted in accordance with evaluations by the Ministry of Health and Social Welfare. The population surveyed does not include figures for the inhabitants of the South Atlantic Islands, which could not be collected directly.

PART II - INFORMATION IN RELATION TO ARTICLES 2 TO 7

Article 2

19. As already observed in part I (General), on 30 November 1985 the Argentine Congress adopted Act No. 23,302, on Indigenous Policy and Assistance to Indigenous Communities. The authorities' aim in encouraging adoption of the Act was to incorporate the demands of the indigenous peoples into measures taken by the Government, while endeavouring to preserve their cultural and linguistic identity and to make historic redress to these communities, which were unjustly dispossessed of their land.

20. Although the National Executive had warmly welcomed the adoption of the Act, which it perceived as settling a long-standing debt owed by the non-indigenous component of society to its indigenous peoples, it identified a number of problems that would arise with regard to implementation, and in consultation with the indigenous communities it decided to suggest a number of amendments to Congress in order to ensure that the Act more rapidly and effectively achieved its objectives (annex 3).

21. As already mentioned in part I, the Legislature has not yet examined the Bill submitted by the Executive. Nevertheless, it is worth describing a number of the amendments proposed.

22. The Bill emphasized new wording for article 2, which defined an indigenous community and shared with the current law the principle of self-recognition, yet was based on cultural and anthropological concepts rather than historical and geographical criteria, for any definition based exclusively on the latter would exclude from the benefits of the Act communities that had settled in Argentina after the conquest and colonization period, such as the Chiriguano, who settled in Argentina barely four decades ago. In this way the generous intentions of the law as a whole were more closely followed.

23. As to an indigenous community's legal personality in respect of civil and commercial matters, the new article 3 proposed the introduction of a new form of legal personality, "the indigenous community", distinct from those hitherto provided for by law. As apparent from the spirit of the Act, an indigenous community is rather more than an association between individuals for a commercial purpose: it is a community of people living together, in the broadest sense. Accordingly, it was proposed to cut down the essential requirements for legal personality, as they were already met by the community's own experience, and it was impossible to impose other requirements without jeopardizing the group's social cohesion. Consequently, it was decided to respect the internal organization of the community, which would only lose its legal personality when it ceased to exist as such. The only requirement is for the community's organization to be set out in a statute indicating the manner in which its legal representatives are appointed, for the information of the authorities and third parties and as a form of guarantee. Accordingly, it was proposed that the current article 4 be abrogated.

24. Another matter on which amendments were proposed was the enforcement authority. Chapter III of the Act was entirely reformulated, and it was proposed that it should be entitled "Of the enforcement authority". The current version provides for the establishment of the National Indigenous Institute, whose legal status has been deemed vague, a fact which, together with the lack of specific funds (as the law makes no provision for proper financing), and the overlapping of its functions with those of other bodies, could hamper implementation. Even if it proved possible to implement it, the Act was likely to operate in an inflexible and inefficient manner. Hence the attempt to amend articles 5 and 6 of the current Act, maintaining the power of the Executive to designate the enforcement authority and to assign to it regulatory powers to be specified by regulations. It was therefore proposed that the enforcement authority should be made responsible for implementing the Act in question, together with the section of Act No. 14,932 ratifying ILO Convention No. 107.

25. Article 5, as proposed, guaranteed participation by the indigenous community and the establishment of bodies to assist the authority designated in accordance with the basic aim of current legislation. Article 18 of the Bill made provision for participation by the provinces.

26. The new article 6 provided the enforcement authority with the necessary legal foundation to direct the National Registry of Indigenous Communities (the establishment of which was unaffected by the proposed changes), including the power to grant and withdraw legal personality. It was proposed that the right of direct appeal to the courts should be maintained, although the time-limits were extended in order to facilitate the defence of communities in areas far removed from towns and cities, and competence was extended to the relevant federal court in the capital, in addition to the court of the place in which the community lives.

27. The present law has recognized the importance attached by the indigenous communities to land, which goes well beyond its financial value, as it is the area in which they live, in which they develop their cultural relationships and in which they preserve their identity as a people.

28. The new article 7, as proposed, included amendments to allow land use in accordance with each community's own customs. Similarly, the practice of awarding land to individuals not comprising a community was eliminated, as the objective was to preserve the social and cultural identity of the indigenous inhabitants living in a community with members of their own group.

29. In addition, the period in which land awarded can not be alienated has been extended from 20 to 40 years in order to prevent speculation by non-indigenous persons. There is every likelihood that the long process of spoliation and assimilation has weakened the bond between some communities and their land. The aim is to revive the sense of belonging, an objective considered possible within the space of two generations (40 years).

30. It has been realized that the system of formal education provided throughout the country is somewhat out of touch in the case of indigenous communities in rural areas, where the official methods and curricula provide a standardized education that disregards the empirical knowledge instilled by

the ancestral indigenous culture. Accordingly, it was proposed to replace article 14, making provision for bilingual intercultural curricula and for pedagogical, conceptual and practical participation by the indigenous population itself.

31. It was also proposed that the necessary measures should be adopted to ensure application of the labour laws to the indigenous population, an area in which the potential for abuse is well known. Measures were also proposed to enhance the dissemination of indigenous culture through the media with the participation of the indigenous population, and the right to due process, to a defence and to fair penalties was also safeguarded. The latter right was already established in the Argentine Codes of Procedure, but on account of the specificities of indigenous culture there have been numerous abuses entailing injustice to individuals. It was thus considered best to provide those concerned with express legal grounds on which to defend themselves.

32. The aim of the Executive through this reform of the present Act was to introduce a complete and up-to-date body of law to protect the ethnic identity of the indigenous population and to create genuine opportunities to participate fully and on an equal footing in Argentine society. However, in this connection it should also be mentioned that, at its July 1987 session, the Senate decided to request the Executive to implement Act No. 23,302 in full.

33. Finally, Act No. 23,162, authorizing the registration of indigenous first names or names derived from indigenous or Latin American words, was incorporated as article 3 (bis) of Act No. 18,248.

34. When Argentina's ninth periodic report was considered, the Committee's experts asked questions about the following: (a) the number of indigenous people given land rights and the amount of land transferred to them; and (b) the steps taken to enable indigenous populations to promote agricultural production. Before examining these issues, it is necessary to recall the specific characteristics of the indigenous question in Argentina.

35. Article 1 of the Argentine Constitution specifies that the form of Government shall be a representative federal republic. The respect thus shown for the autonomy of the provinces that make up the nation gives special significance to the way in which the indigenous question is dealt with. It should be emphasized that provincial legislation does not run counter either to the Constitution or to national law, although it reflects the particular characteristics of socio-cultural conditions in each province. In this connection, it should be mentioned that various provinces have enacted legislation on indigenous matters (which is covered in para. 42 of this report).

36. Hence co-ordination with the various provinces is maintained and it is hoped that the following information will in so far as possible answer the questions raised by the experts.

37. Most of the State land available for transfer to the indigenous populations is owned by the provinces. In provinces such as Formosa, Chaco and Neuquén land has been transferred pursuant to the provinces' own legislation. The significance of the amount of land is relative, as it depends on the place, the type of soil, the possibilities for irrigation, etc.

38. The data on the number of members of the indigenous population who have been given title deeds to their land are heterogeneous, as such transfers are on some occasions made to communities and on others to families. In order to facilitate land transfer the Sectoral Office of Indigenous Affairs of the Under-Secretariat for Welfare (Ministry of Health and Welfare) has been providing support for measures to survey land and streamline the transfer of land ownership. In this connection, mention should be made of the projects "Survey and Subdivision of range No. 40 in Aguas Calientes, Cochinoca Department, Jujuy Province" as well as a similar project in Huacalera, Tilcara Department, Jujuy Province.

39. As far as measures to develop farming and stockraising are concerned, the following projects should be mentioned:

- (a) Supply of seed to the farming settlements in La Puna, Yavi Department, Jujuy Province;
- (b) Extension and development of farming, Catanlil Department, Collon Curá, Neuquén Province;
- (c) Development of agriculture in various indigenous communities in Formosa Province;
- (d) Development of farming and stockraising in Jujuy Province;
- (e) Agricultural development in Santa Victoria Oeste, Salta Province;
- (f) Family smallholdings in the Mocoví communities in Los Laureles, Santa Fé Province.

40. In addition, it should be emphasized that support for agricultural and stockraising programmes is constantly provided, as far as the budget allows, by the Directorate of Development and Welfare of the Ministry of Health and Welfare.

41. At the national level, in the period since 1985 changes have been made in various social and economic development projects aimed at improving the living conditions of the indigenous communities in the provinces of Chaco, Chubut, Formosa, Jujuy, Misiones, Neuquén, Río Negro, Salta, Santa Cruz and Santa Fé.

42. At the provincial level, the following laws concerning indigenous communities have been adopted:

- (a) Act No. 6,373, dated 15 June 1986 (Salta Province), establishing the Indigenous Institute, with an Executive Board headed by an indigenous person (annex 5);
- (b) Act No. 5,758, dated 27 June 1986 (Tucumán Province), concerning implementation of Act No. 23,302;
- (c) Bill concerning the indigenous population, submitted by the Executive of Río Negro Province to the legislature in March 1987.

Article 3

43. Immediately after they took office, the new constitutional authorities cut ties with South Africa to a minimum, and the Argentine Embassy in Pretoria was closed. The Argentine Parliament and Government have repeatedly expressed their support for the struggle of the peoples of South Africa and Namibia.

44. Mindful of the ethical dimension to international relations, on 22 May 1986 the Argentine Government decided to break off diplomatic relations with the racist Government in Pretoria, as an unequivocal gesture in support of the peoples of Namibia and South Africa.

45. It should be stressed that this measure had a significant impact on trade relations, and led to a sharp drop in Argentine exports, for exports to South Africa had previously accounted for more than half of total Argentine exports to Africa.

46. The manifest purpose of this measure was to punish a régime which, by perpetuating an outdated system, represents a continuing violation of human rights both within South Africa and internationally on account of its acts of aggression against neighbouring nations, thereby constituting a constant threat to the maintenance of both domestic and international peace.

47. As already mentioned in Argentina's ninth report to the Committee, by Act No. 23,221 the National Congress acceded to the International Convention on the Suppression and Punishment of the Crime of Apartheid, and the instrument of ratification was deposited on 7 November 1985.

48. At this point it should be mentioned that the Argentine delegation at the forty-first session of the United Nations General Assembly supported the resolution concerning the implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination, the resolution on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa, and the resolutions on the elimination of all forms of racial discrimination. The same stance was adopted by the Argentine delegation in the voting on the human rights situation in South Africa and Namibia at the forty-third session of the Commission on Human Rights.

49. At the forty-second session of the General Assembly, the following resolutions were adopted with the support of the Argentine Republic:

(a) Resolution 42/138: Assistance to student refugees in southern Africa;

Resolution 42/47: Second Decade to Combat Racism and Racial Discrimination;

(b) Resolution 42/56: Status of the International Convention on the Suppression and Punishment of the Crime of Apartheid;

(c) Resolution 42/57: Report of the Committee on the Elimination of Racial Discrimination;

(d) Furthermore, at the forty-fourth session of the Commission on Human Rights, Argentina supported the following resolutions:

(e) Resolution 1988/8: Situation in southern Africa.

(f) Resolution 1988/9: Situation of human rights in South Africa.

(g) Resolution 1988/10: Situation of human rights in Namibia.

(h) Resolution 1988/13: The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to colonial and racist régimes in southern Africa.

(i) Resolution 1988/14: Implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid.

(j) Resolution 1988/15: Measures to combat racism and racial discrimination and the role of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

(k) Resolution 1988/16: Implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination.

50. A further illustration is the Declaration adopted by the Argentine Senate on 21 May 1986 (No. 0286-S-86) repudiating racial discrimination by South Africa against Botswana, Zambia and Zimbabwe.

51. Attention is also drawn to the fact that on a number of occasions the Argentine Republic has called for the release of Nelson Mandela and other political detainees.

52. As far as regional policy is concerned, the Argentine Government is striving to establish closer relations with countries neighbouring South Africa that may be affected by the boycott and embargo against South Africa, on account of their economic dependence. In March 1985 diplomatic relations were established with Zimbabwe, and an Embassy was opened there in 1987.

Articles 4 and 5

53. As stated in part I, in August 1988 Congress adopted the Act relating to punishment of discriminatory acts on the grounds of race, religion or nationality.

54. The Act stipulates that "Anyone who arbitrarily prevents, obstructs, restricts or in any way undermines the full exercise, on an equal footing, of the fundamental rights and guarantees recognized in the Constitution shall be obliged, at the request of the injured party, to eliminate the effect of, or halt, the discriminatory act and to make reparation for the moral and material damage caused".

55. For the purposes indicated above, particular consideration is given to "discriminatory acts or omissions on grounds such as race, religion, nationality, ideology, political or trade union views, sex, financial position, social status or physical characteristics".

56. Further on, it is stated that "The minimum penalty shall be raised by one third and the maximum penalty by one half for all offences classified in the Penal Code or supplementary laws when they are committed out of persecution or hatred for a race, religion or nationality, or for the purpose of totally or partly destroying a national, ethnic, racial or religious group. In no case shall the penalty exceed the legal maximum for the type of penalty involved".

57. With regard to article 4 (b) of the International Convention on the Elimination of All Forms of Racial Discrimination, relating to discriminatory organizations and propaganda, the Act states that "Anyone who participates in organizations or produces propaganda based on ideas or theories of the superiority of a race or of a group of persons of a specific religion, ethnic origin or colour, which have as their objective the justification or encouragement of religious or racial discrimination, shall be liable to imprisonment for one month to three years. Anyone who in any way encourages or incites to persecution or hatred against a person or groups of persons on grounds of race, religion, nationality or political ideas shall be liable to the same penalty".

Legal provisions currently applicable in the courts

58. In the first place, it should be mentioned that the Constitution explicitly establishes the principle of equality in article 16. Furthermore, article 20 of the Constitution stipulates that aliens in Argentine territory enjoy all the civil rights of a citizen: "they may engage in industry, commerce and their occupations; own, purchase and dispose of landed property; sail the rivers and coasts; freely practise their religion; make wills and marry in accordance with the laws. They shall not be obliged to take Argentine citizenship or to pay special compulsory taxes ...".

59. Similarly, in its statement of principles, it speaks of the civil, economic, social and cultural rights of the "inhabitants", i.e. of the nationals or aliens who reside in the national territory with the intention of remaining there or who live there without having a domicile with full legal effects (Judgements 151:211, Court of Justice of the Nation). Similarly, it should be mentioned that the highest Argentine Court of Justice has stated that "persons who, whether or not they are inhabitants of the country, are under the nation's jurisdiction because of acts they perform in the nation's territory, are by this fact alone afforded the protection of the Constitution and the laws of the nation" (Judgements: 186:421).

60. Thus, it can be inferred that no type of discrimination is protected under the national legal system, because it is basically incompatible with the rules of the Constitution. Moreover, the Argentine Republic has incorporated many international human rights instruments into the law in force.

61. With regard to national legislation, the Argentine Penal Code (substantive legislation in force throughout the country) stipulates rigorous or ordinary imprisonment for life for homicide committed on account of racial or religious hatred (art. 80 (4)). This is also considered to be an aggravating factor in offences involving bodily harm or injury to health (art. 92), the use of weapons (art. 105), unlawful deprivation of liberty (art. 140 (1)), harassment or coercion or deprivation of liberty committed by a public official, which shall also be punished by rigorous or ordinary imprisonment (art. 144 bis).

62. Similarly, under the Political Parties Organization Act (No. 23,298) it is prohibited for the names of political parties to contain "words displaying racial, class or religious antagonisms or tending to provoke them".

Article 6

Ordinary remedies before the courts

63. In keeping with the terms of article 17 et seq. of the Code, criminal proceedings relating to offences under articles 80 (4); 92; 105; 142 (1); and 144 bis of the Code are initiated automatically.

64. Similarly, article 29 of the Code grants the victim of any offence, his family or third parties that have been injured, even indirectly, the right to reparation for all material and moral damage, i.e. the right to full reparation. Article 31, for its part, stipulates that "the obligation to compensate for damage is jointly shared by all those responsible for the offence". Furthermore, the provision of article 29 of the Penal Code does not affect the system of compensation set forth in the Civil Code, and its provisions should be applied.

65. The law in force in Argentina also establishes the remedy of amparo (enforcement of constitutional rights) for all acts or omissions by public authorities or individuals who, in a manifestly arbitrary or unlawful manner, actually or potentially undermine, restrict, affect or jeopardize the rights and guarantees explicitly or implicitly recognized in the Constitution, with the exception of the freedom of the individual as protected by the remedy of habeas corpus (Act No. 16,986 and art. 2 of the Code of Civil and Commercial Procedure). Both cases involve rapid or extremely brief proceedings.

Special remedies before the Supreme Court of Justice

66. Act No. 48, article 14, governs special remedies before the highest court of justice in the country against final judgements by the higher provincial courts in cases where a "federal matter" has arisen, i.e:

(a) When a lawsuit has challenged the validity of a treaty, congressional law or authority enacted or exercised on behalf of the nation and the decision has been against its validity;

(b) When the rationale of a clause of the Constitution or of a treaty or congressional law, or a commission conducted on behalf of the national authority, has been challenged and the decision has been against the validity of the title, right, privilege or exemption which is founded on that clause and is the subject of litigation;

(c) When the validity of a provincial law, decree or authority has been challenged on the ground that it is inconsistent with the National Constitution, treaties or congressional laws, and the decision has been in favour of the validity of the provincial law or authority.

67. Again, Supreme Court case law has confirmed the use of special remedies for arbitrary judgements, on the assumption that the decision being appealed does not stem logically from the law in force.

Administrative remedies

68. Without prejudice to special procedural norms in various administrative fields, Act No. 19,549, relating to Administrative Procedures, and the regulatory Decree, No. 1759/72, provide an entire range of remedies before the administrative bodies of the State. The Act also provides for judicial challenges of administrative acts.

Mechanism for complaints

69. Decree No. 3090/84 established, within the Ministry of the Interior, the Under-Secretariat for Human Rights, which has competence to receive complaints of human rights violations by bringing them to the attention of the competent judicial and administrative authorities (art. 2 (d)).

Article 7

70. The following national and international events on indigenous issues have taken place in the Republic of Argentina:

(a) Seminar on Indian ideology, philosophy and policies, held by the Consejo Indio de Sudamérica (South American Indian Council) and supported by the Executive. This event took place in the city of Cosquín, Córdoba Province, in September 1986;

(b) First Inter-American Conference on Indigenous Peoples, organized by the Rómulo Raggio Foundation and declared to be of national interest. Held from 10 to 13 September 1986;

(c) Contemporary Meeting with Our Aboriginal Cultures, held by the Municipality of Buenos Aires, at the San Martín Cultural Centre in March 1987.

71. It should be pointed out that there are no legal impediments in our country to indigenous persons entering the educational system at all levels.

72. For example, the national Government, jointly with the Province of Río Negro, prepared a training programme for young indigenous persons for the Inter-American Indian Institute and the Institute adopted the programme in December 1986.

73. The lack of bilingual programmes has an adverse effect on indigenous pupils, as does the lack of intercultural education. These factors, together with a socio-economic situation that forces indigenous persons to take their children out of school in order to help in the family work, place the educational issue in the category of "problem situations" which are being resolved through specific bilingual and intercultural programmes.

74. Therefore, the measures adopted by the Government in the educational field for the benefit of the student population as a whole also have positive effects on the indigenous population. In this respect mention should be made of the National Literacy Plan, under which more than 4,000 literacy centres were established throughout the country, and the creation of a distance education system.

ANNEXES 1/

ANNEX 1

Municipal Order No. 40,831/85, Office of the Commune Controiler-General.

ANNEX 2

Act No. 23,592, relating to discrimination.

ANNEX 3

Bill amending Act No. 23,302, on National Indigenous Policy.

ANNEX 4

Table G.1 - Total population by sex, density and urban or rural zone, by province (1980).

ANNEX 5

Aboriginal Act 6373/86, Province of Salta.

ANNEX 6

Adoption of the Convention concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities, Act No. 23,451/86.

ANNEX 7

New Constitution, Province of Córdoba.

1/ The documents cited, in Spanish, are filed in the Secretariat archives and are available to members of the Committee who wish to consult them.
